

ENVIRONMENTAL PROTECTION COMMISSION  
SPECIAL MEETING/PUBLIC HEARING  
MINUTES

September 18, 2008

7:00 P.M.

Auditorium, Town Hall

Chairman Hillman called the meeting to order at 7:05 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Craig Flaherty, Rick Rohr, Michael Tone, Ellen Kirby, and Pete Kenyon.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first hearing item.

EPC-54-2008, Land Rover of Darien, 90 Post Road, proposing a building addition and changes to drainage in an upland review area. The site is shown on Assessor's Map #32 as Lot #3.

Jacek Bigosinski, Architect and John Martucci, P.E. represented the applicant.

Mr. Martucci described the additional information provided on the stormwater management plan. He said there is an oil separator in the building connected to the sanitary sewer. He said the parking lot separator is connected to the infiltrator and the existing discharge.

Mr. Flaherty asked about the catch basin on the adjacent property. Mr. Martucci said there was a headwall with a 36" pipe that was replaced with a catch basin. Mr. Flaherty said he is still concerned with the pipe under the building restraining future improvements. Mr. Martucci said the area has never flooded.

Mr. Hillman made a motion to approve the application with the stipulation that additional drainage calculations be provided to Mr. Flaherty and staff. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the next hearing item.

EPC-36-2008, Robert and Justine Stewart, 24 Cross Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #69 as Lot #11 (public hearing was closed September 3).

The Commission reviewed the draft resolution and made revisions.

Ms. Cameron made a motion to approve the application. Mr. Tone seconded the motion and it passed unanimously.

Mr. Hillman read the next hearing item.

EPC-49-2005, 54-58 Sunswyck Road, Shanahan (formerly Kelly), request from Wilder G. Gleason, Esquire to modify a stipulation of the permit.

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Mr. Rohr was recused for this item.

Mr. Gleason represented Mr. and Mrs. Shanahan. He said they are requesting to use Lot B as a staging area for Lot A. He said they would do the mitigation work prior to using the site.

Mr. Hillman asked how much of the regulated area would be used. Mr. Gleason said a maximum of 600 square feet.

Mr. Hillman said the language of the approval was very specific. The Commission requested a more detailed sequence of construction, E & S controls, and a time line.

This item was continued to October 1.

Mr. Hillman read the first public hearing item.

EPC-32-2008, Ellen McCue, 17 Top'O Hill Road, requesting after the fact approval to complete filling and stone wall construction within an upland review area. The site is shown on Assessor's Map # 29 Lot #87. (continued from September 3).

Attorney Eric Bernheim represented the applicant. He introduced Rob Liscianra from Steck's Nursery and Tom Nelson, P.E.

Mr. Liscianra described the revised planting plan.

Mrs. Knag said she is concerned with the swale not being shown in the exact location on the plan. She said she measured it and it should be 33 feet in length. Mr. Nelson said the swale is defined by arrows on the plan. Mr. Flaherty asked them to show the swale as a continuous line. Mr. Nelson asked it to be included as a condition of approval.

Mrs. Webb, Top O'Hill Road said they are dealing with drainage on her lot from the driveway. Mr. Nelson described the changes to the drainage to address her concerns.

Mr. Hillman made a motion to close the public hearing. Mr. Tone seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

The Commission requested staff to draft an approval with stipulations to show the swale and splash pad locations in more detail, add the swale planting, and show the swale on the southerly property line.

Mr. Hillman read the next public hearing item.

EPC-35-2008, Oakview Housing Trust, LLC, 26 Oak Crest Road, proposing demolition of existing residence, construction of 10 condominium units in two buildings, and related site development activities within an upland review area. The site is shown on Assessor's Map #15 as Lot #101. (continued from August 26).

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Mr. Flaherty was recused on this item and left the meeting.

Attorney Matthew Ranelli represented the applicant.

Mr. Hillman said he watched the DVD of the previous hearing on August 26 and can participate.

Mr. Hillman said that Town Counsel has advised that the two LLCs are legally viable and it is not appropriate to probe further.

Mr. Golden said the ownership of the property is a significant issue. He said the applicant should withdraw the application. Mr. Ranelli said they would not withdraw.

Mr. Hillman said that Town Counsel's letter is clear that the application is based on an erroneous premise with a hammerhead turn around. He said the Commission would like to see alternative plans with a cul-de sac and the additional impervious area and the potential impact on the Goodwives River.

Mr. Ranelli responded by reviewing the additional materials submitted, including an alternate plan, a landscape plan, revised plan details, an area map, a detention basin plant list, and a excerpt from the 2004 DEP Stormwater Manual. He said their position has not been changed by the Town Attorney's letter that there is no requirement for a cul-de-sac. He said the EPC cannot determine the scope or extent of property rights. He said they laid out a cul-de-sac before they submitted the application. He said the stormwater system design anticipated the cul-de-sac.

Ms. Cameron said if the cul-de-sac was required it would a new EPC application.

Mr. Ranelli said that if the Town built the cul-de-sac they have provided an analysis of runoff for that situation. The system would control runoff volume up to a 100 year storm and peak flows up to a 50 year storm. He said they would require on additional row of rain storage units.

Mr. Hillman said he would need to see the entire application revised to determine the stormwater impacts. He said the application is disingenuous and based on a false premise.

Mr. Ranelli said the numbers have been verified by a P.E.

Ms. Cameron said the Commission should move forward on the assumption of a cul-de-sac and how they will manage stormwater if the Town builds a cul-de-sac.

Mr. Ranelli said, if a cul-de-sac was part of the proposal, the numbers show the system can accommodate it.

Ms. Cameron asked of the mitigation plantings being offered would be altered. William Carboni, P.E. said that a 100 foot radius cul-de-sac could be put into place without modifying the trees.

Mr. Carboni said there is a 2,128 square foot difference in pavement not 8,000. Mr. Ranelli said they would accept providing the additional rain tanks as a condition of approval.

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Ms. Cameron asked about snow storage. Mr. Ranelli described the snow removal areas and said they responded to the Fuss & O'Neill comment in their report regarding not placing snow in the basin. He said there would be a split rail fence to prevent snow being pushed into the basin.

Mr. Rohr said there was no detail for a concrete curb. Mr. Carboni said they were proposing bituminous curbs. Mr. Rohr said he had requested concrete curbs because bituminous curbs will be destroyed.

Mr. Ranelli described their other responses in the report submitted including the cross section details, spot elevations, and an alternative basin design with a flat bottom and the roof gutter analysis. He said there is no concern with the basin breaching because is an excavated basin and is not like a dam.

Mr. Carboni responded to the Fuss & O'Neill letter of August 26. He said the volume of runoff is less post-construction. He said 1.6" of rainfall is stored in the basin. He said the water is treated first by the sumps in the catch basins, then by the water quality units and then by percolation into the soil. He said the Fuss & O'Neill proposed increase did not consider the rain tanks or storage in the basin. He said there is a treatment train provided. He said they designed for the 2-100 year storms as recommended by Fuss & O'Neill. He said they would provide additional catch basins as recommended by Fuss & O'Neill as a condition of approval. He said they would add additional silt fence if requested by the Commission.

Ms. Cameron said she had concerns with snow volume and accumulated snow will be placed after several storms.

Mr. Hillman asked Mr. Carboni if his thinking had changed regarding the site after viewing Mr. Adams' DVD. Mr. Carboni said he had not reviewed the DVD. Mr. Hillman asked if he had visited the site during storm Hannah. Mr. Carboni said no. Mr. Hillman asked about the storm frequency on September 6. Mr. Carboni said it was at least a 10 year storm at their office in Monroe.

Mr. Tone asked if the building footing was in the basin. Mr. Carboni said it was approximately 25 feet from the basin and seven feet higher to the finished floor. Mr. Tone said he would like Joe Canas to review the location of the building relative to the basin. He asked the purpose of the curtain drain. Mr. Carboni said it was to maintain flow out of the basin in extreme high water. Mr. Tone asked if the Town mandates the cul-de-sac, will the property receive runoff from further up Oak Crest. Mr. Carboni said no. Mr. Tone asked Joe Canas to confirm this.

Mr. Hillman asked if they addressed the September 16 comment from Tighe & Bond regarding the detention basin slopes. Mr. Carboni said they addressed this comment by providing a wall.

Mr. Hillman asked Joe Canas, P.E., if he had enough information to give an opinion on the impact of a cul-de-sac versus a hammerhead. Mr. Canas said no. He said he would need calculations, a watershed map and information on the pipes. Mr. Hillman asked if he had enough information from the current application to provide an opinion on adverse impact. Mr. Canas said no.

Gregory Harmer, Oak Crest Road read a letter into the record opposing the application.

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Richard Windels said he was opposed to the project. He said they engaged Fuss & O'Neill to review the application. He said the trash dumpster in the hammerhead would need to be relocated. He said the applicant's experts are unfamiliar with the Goodwives River. He said the Commission cannot rely on the hydraulic studies. He said the snow shelves are inadequate. He said there is no equipment access to the detention pond. He described his experience with the Goodwives River. He said there will be an impact from increased volume to the river.

Phil Moreschi, P.E., Fuss & O'Neill provided a letter dated September 18 and reviewed their comments. Mr. Hillman asked his opinion on whether the current proposal is likely to have an adverse impact on the Goodwives River. Mr. Moreschi said it would have an impact and it is a matter of degree. He said the additional information would need to be addressed. Mr. Hillman asked if he assumed a cul-de-sac would be built would the degree of impact be greater. Mr. Moreschi said yes.

Mr. Tone asked him if 80% suspended solid removal is adequate. Mr. Moreschi said it is a standard adopted as a surrogate for pollution. He said the dissolved pollutants are not accounted for.

Mrs. Bowman, Oak Crest Road said the applicants maintain there will be no impact because of 80% removal. She said that still leaves 20% of unknowns. She read a letter into the record opposing the application.

Chris Paul, Oak Crest Road, asked if the Commission has the capacity to inspect the system. Mr. Hillman said there would be bonding requirements, site monitors, etc. to insure compliance.

Joe Adams said there were items requested by the Commission that were not supplied. He said the Commission should be looking at alternatives.

Mr. Hillman asked him to explain the relevance of his DVD. Mr. Adams said it shows the current state of flooding in a minor rain storm.

Foster Smith, Oak Crest Road said application is not viable.

The Commission requested additional information to be submitted by the application opponents by October 2 and the applicant's responses by October 15.

The hearing was continued to October 22.

Mr. Rohr made a motion to adjourn. Mr. Tone seconded the motion and it passed unanimously. The meeting was adjourned at 12:30 p.m.

Respectfully submitted,

Richard B. Jacobson  
Environmental Protection Officer